



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

March 16, 2015

Marvin F. Taylor Sr.
Indiana State Prison
One Park Row
Michigan, IN 46360

Re: Formal Complaint 15-FC-35; *Alleged Violation of the Access to Public Records Act by the Indiana Supreme Court State Board of Law Examiners*

Dear Mr. Taylor,

This advisory opinion is in response to your formal complaint alleging the Indiana Supreme Court State Board of Law Examiners ("BLE"), violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* On February 20, 2015, BLE responded via Mr. Bradley Skolnik, Executive Director. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor February 5, 2015.

BACKGROUND

Your complaint dated January 28, 2015 against the Indiana Supreme Court Board of Law Examiners, alleges the BLE violated the Access to Public Records Act (Ind. Code § 5-14-3) by failing to produce records responsive to your request.

On January 7, 2015, you sent a public records request to the BLE seeking a copy of Certificate of Graduations, copies of Character and Fitness Reports and certification that the specified individuals passed the Bar Exam. On January 22, 2015 BLE refused, claiming Admission and Discipline Rule 19 provides the information requested shall be confidential. You claim an unsigned refusal that does not cite the denying statute is a violation of the APRA.

Executive Director for the BLE responded on February 19, 2015. Mr. Skolnik reiterates the stance of the BLE, that Admission and Discipline Rule 19 prevents the disclosure of information because the requested information is confidential.



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

ANALYSIS

The public policy of the APRA states that “a (p)roviding person with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Indiana State Board of Law Examiners is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy the BLE’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

Admission and Discipline Rule 19, promulgated by the Indiana State Board of Law Examiners effectively writes the agency out of the Access to Public Records Act as to most public records. While they are a public agency as defined by the APRA, the Rule renders any request to it obsolete other than very specific information. Please consider all materials and information which would normally be public record is exempt from disclosure under Section 2 of the Rule. Whereas Section 3 explicitly states the instances when information may be released based upon the subject matter of the record.

You claim the Board did not state the authority exempting the records from disclosure; however, the denial clearly lists Rule 19 as the proper citation. As for indicating the name and title of the person stating the request, in the future I encourage the Board to list a specific employee or officer making the decision rather than signing the denial as a collective. This practice would be technically consistent with the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", with a long, sweeping underline.

Luke H. Britt
Public Access Counselor



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

Cc: Mr. Bradley W. Skolnik